

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

D.B.,¹

Plaintiff,

v.

MARTIN J. O'MALLEY,

Defendant.

Case No. [24-cv-00295-PHK](#)

**ORDER TO SHOW CAUSE RE:
FAILURE TO PROSECUTE AND
FAILURE TO COMPLY WITH COURT
ORDER**

Re: Dkt. 20

On January 18, 2024, *pro se* Plaintiff D.B. (“Plaintiff”) filed a complaint seeking judicial review of a final decision by the Commissioner of the Social Security Administration, Defendant Martin O’Malley (“Commissioner”), denying Plaintiff’s application for supplemental security income. [Dkt. 1]. On February 21, 2024, the Court granted Plaintiff’s application to proceed *in forma pauperis*, and on February 27, 2024, the Court completed the mandatory screening of Plaintiff’s complaint, in accordance with 28 U.S.C. § 1915. [Dkts. 5-6]. On March 25, 2024, the Commissioner filed the Administrative Record, in accordance with Rule 4 of the Supplemental Rules for Social Security Actions. [Dkt. 10]. By operation of the procedural rules, therefore, Plaintiff’s brief for the requested relief was due within thirty days of the filing of the administrative record. *See* Dkt. 3.

On April 19, 2024, Plaintiff filed a motion requesting an additional four months to file an opening brief so that Plaintiff could find an attorney to represent her in this action. [Dkt. 15]. The Court granted the request and ordered Plaintiff to file an opening brief by August 22, 2024. [Dkt. 16]. On August 21, 2024, Plaintiff filed her second motion for extension of time, in which she

¹ In actions involving requested review of a decision by the Commissioner of the Social Security Administration, the Court generally uses the first name and initial of last name (or just the initials) of the plaintiff in the Court’s public Orders out of an abundance of caution and out of regard for any privacy concerns on plaintiff’s behalf.

1 requested an additional three months to file an opening brief so that Plaintiff could find an
2 attorney. [Dkt. 17]. The Commissioner did not oppose that motion. [Dkt. 19]. The Court granted
3 the second request and ordered Plaintiff to file an opening brief by November 20, 2024. [Dkt. 20].

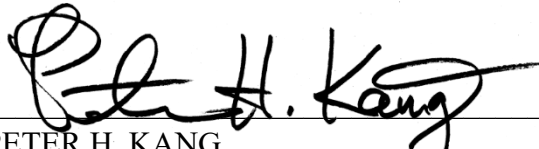
4 As the procedural history demonstrates, this case has been pending for almost one year
5 with no substantive progress. To date, Plaintiff has neither filed an opening brief nor requested a
6 further extension of time from the Court to do so. The November 20, 2024 deadline for filing an
7 opening brief has passed by over a month without any communication from Plaintiff to the Court.

8 The Court possesses the inherent power to dismiss an action *sua sponte* if the plaintiff fails
9 to prosecute or comply with court orders. Fed. R. Civ. P. 41(b); *see Link v. Wabash R.R. Co.*, 370
10 U.S. 626, 629-30 (1962) (dismissal for failure to prosecute); *Yourish v. Cal. Amplifier*, 191 F.3d
11 983, 987 (9th Cir. 1999) (dismissal for failure to comply with court orders). Plaintiff is hereby
12 warned that failure to comply with this Court's orders and failure to prosecute this case, including
13 failure to respond to this Order to Show Cause and further including failure to file an opening brief
14 by the deadline, will result in negative consequences for Plaintiff, **including dismissal of this**
15 **action.**

16 Accordingly, by no later than **January 13, 2025**, Plaintiff shall file either (1) a written
17 response to this Order explaining why this action should not be dismissed for failure to prosecute
18 this case or for failure to comply with this Court's directives and orders, or (2) an opening brief as
19 required by Supplemental Rule 6. If Plaintiff needs yet additional time to prepare and file an
20 opening brief, Plaintiff **SHALL** explain why and how much additional time is needed. If Plaintiff
21 fails to respond to this Order to Show Cause by the January 13, 2025 deadline, the Court will
22 reassign this action to a District Judge with the recommendation that this action be dismissed
23 without prejudice for failure to prosecute and for failure to comply with court orders.

24 **IT IS SO ORDERED.**

25 Dated: December 20, 2024

26 
27 PETER H. KANG
28 United States Magistrate Judge